

Minutes of MTC Income & Franchise Tax Subcommittee
Teleconference held Wednesday, May 5, 2004

In attendance:

States

Ben Jablow, Gary Moreland, Al Baucom FL
Frank Hales, Kim Ferrell UT
Greg Radford NC
Bryan Vargas KS
Mike Brownell, CA
Jennifer Hays, KY
Ted Spangler, Dick McFarland, Lyn Chenoweth, ID
Mary Loftsgard ND
Bill Speckman, CO
David Foster, Tom Atchley, Joe Ellis AR
Jim McNulty, IA
John Feldman, MO
Jeff Sherman, OH
Janielle Lipscomb, Paul Guthrie, Eric Smith, OR
ME
IL

Private Sector

Jean Walker, Ernst & Young
Rebecca Bertothy, Ernst & Young
Kerrita McClaughlyn, Tax Analysts
Jeff Friedman, KPMG
Ferdinand Hogrorian, PricewaterhouseCoopers
Kendall Houghton, PricewaterhouseCoopers
Kevin Thompson, COST

MTC Staff

Shirley Sicilian
Roxanne Bland

I. Welcome and Introductions

Jennifer Hays, Subcommittee Chair, opened the teleconference meeting on combined reporting with respect to charitable expenses and holding companies.

II. Public Comment

None.

III. Brief Tutorial on Specific Issues Related to Combined Reporting

Mike Brownell, CA-FTB, explained the role of holding companies in determining whether a holding company is part of a unitary business, and how CA approaches the issue. He noted that the issue of how to treat a holding company is arguably outside the mechanics of combined reporting rule. He further noted that no state specifically excludes holding companies from the combined report, but some treat the issue on a case by case basis.

Mr. Brownell concluded the question is whether holding companies should be included in a statute regulation or should the question be referred back to the Uniformity Committee.

After discussion, the subcommittee decided to draft a regulation (statute?) based on two rulings from CA which will address the de minimis issue also (relating to the instance where a unitary holding company also holds a company that is not unitary). CA so moved, and was seconded by ID. The motion passed unanimously.

Treatment of Charitable Expenses

Mr. Brownell noted the general question here is how to distribute a charitable expense among a unitary group. The issue becomes especially relevant when the group has both business and nonbusiness income. . He noted CA does not have a position on this issue at present, but it is currently under development.

Because of the complexity of this issue, it was suggested that the states might need a little more time to think about the matter in order to give staff guidance on drafting a statute. CA moved to hold the issue over until the summer meeting in Mystic, CT. KS seconded the motion. The motion passed unanimously.

IV. Committee Discussion and Policy Direction for Draft of Combined Reporting Rule

Shirley Sicilian, MTC Deputy General Counsel, noted what will be presented to the subcommittee will be a statutory draft. It will not have all the details of a regulation. Development of a regulation is expected to be taken up after the statutory draft is completed.

V. Next Steps

CA moved to accept the Statement of Policy Goals and Objectives for the combined reporting project. ID seconded the motion. The motion passed unanimously.

VI. Adjournment

The teleconference meeting was adjourned.